

AMENDED IN ASSEMBLY JUNE 20, 2005

AMENDED IN ASSEMBLY JUNE 9, 2005

AMENDED IN SENATE APRIL 26, 2005

SENATE BILL

No. 565

Introduced by Senator Migden

(Principal coauthor: Assembly Member Nunez)

February 18, 2005

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 565, as amended, Migden. Property tax reappraisal exclusion: domestic partners.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing law excludes from the definition of "change in ownership" specified transfers of real property between family members and transfers made for the purpose of perfecting title to property.

This bill would, commencing with the lien date for the 2006-07 fiscal year, exclude from the definition of "change in ownership" any transfer of property between registered domestic partners. ~~This bill would also require that 2 specified regulations relating to changes in ownership of real property be applied retroactively to July 1, 2003,~~

~~and make findings regarding the public purpose served by this provision.~~

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) It is the intent of the Legislature in enacting this act to
4 guarantee equality for all Californians, regardless of gender or
5 sexual orientation, and to further the state's interests in protecting
6 Californians from the potentially severe economic and social
7 consequences of abandonment, separation, the death of a partner,
8 and other life crises.

9 (b) To this end, the Legislature has enacted various statutes in
10 an attempt to move California closer to fulfilling the promises of
11 inalienable rights, liberty, and equality contained in Sections 1
12 and 7 of Article I of the California Constitution.

13 (c) For example, in 2002, the Legislature enacted Chapter 447
14 of the Statutes of 2002, effective July 1, 2003, which granted
15 registered domestic partners the same intestate succession rights
16 with respect to separate property as spouses. A liberal reading of
17 Chapter 447 was intended by the Legislature and this act builds
18 upon that framework.

19 (d) Many lesbian, gay, and bisexual Californians continue to
20 face economic discrimination, despite forming lasting,
21 committed, and caring relationships with persons of the same sex
22 according to the laws of this state. These couples build lives
23 together, as do spouses, by purchasing property and creating and
24 operating family businesses. Expanding the rights of registered

1 domestic partners with respect to property ownership would
2 further California's interests in promoting family relationships
3 and protecting family members during life crises, and would
4 reduce discrimination on the bases of sex and sexual orientation
5 in a manner consistent with the California Constitution.

6 SEC. 2. Section 62 of the Revenue and Taxation Code is
7 amended to read:

8 62. Change in ownership shall not include:

9 (a) (1) Any transfer between coowners that results in a change
10 in the method of holding title to the real property transferred
11 without changing the proportional interests of the coowners in
12 that real property, such as a partition of a tenancy in common.

13 (2) Any transfer between an individual or individuals and a
14 legal entity or between legal entities, such as a cotenancy to a
15 partnership, a partnership to a corporation, or a trust to a
16 cotenancy, that results solely in a change in the method of
17 holding title to the real property and in which proportional
18 ownership interests of the transferors and transferees, whether
19 represented by stock, partnership interest, or otherwise, in each
20 and every piece of real property transferred, remain the same
21 after the transfer. The provisions of this paragraph shall not apply
22 to transfers also excluded from change in ownership under the
23 provisions of subdivision (b) of Section 64.

24 (b) Any transfer for the purpose of perfecting title to the
25 property.

26 (c) (1) The creation, assignment, termination, or
27 reconveyance of a security interest; or (2) the substitution of a
28 trustee under a security instrument.

29 (d) Any transfer by the trustor, or by the trustor's spouse, or by
30 both, into a trust for so long as (1) the transferor is the present
31 beneficiary of the trust, or (2) the trust is revocable; or any
32 transfer by a trustee of such a trust described in either clause (1)
33 or (2) back to the trustor; or, any creation or termination of a trust
34 in which the trustor retains the reversion and in which the interest
35 of others does not exceed 12 years duration.

36 (e) Any transfer by an instrument whose terms reserve to the
37 transferor an estate for years or an estate for life. However, the
38 termination of such an estate for years or estate for life shall
39 constitute a change in ownership, except as provided in
40 subdivision (d) and in Section 63.

1 (f) The creation or transfer of a joint tenancy interest if the
2 transferor, after the creation or transfer, is one of the joint tenants
3 as provided in subdivision (b) of Section 65.

4 (g) Any transfer of a lessor's interest in taxable real property
5 subject to a lease with a remaining term (including renewal
6 options) of 35 years or more. For the purpose of this subdivision,
7 for 1979-80 and each year thereafter, it shall be conclusively
8 presumed that all homes eligible for the homeowners' exemption,
9 other than manufactured homes located on rented or leased land
10 and subject to taxation pursuant to Part 13 (commencing with
11 Section 5800), that are on leased land have a renewal option of at
12 least 35 years on the lease of that land, whether or not in fact that
13 renewal option exists in any contract or agreement.

14 (h) Any purchase, redemption, or other transfer of the shares
15 or units of participation of a group trust, pooled fund, common
16 trust fund, or other collective investment fund established by a
17 financial institution.

18 (i) Any transfer of stock or membership certificate in a
19 housing cooperative that was financed under one mortgage,
20 provided that mortgage was insured under Section 213,
21 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as
22 amended, or that housing cooperative was financed or assisted
23 pursuant to Section 514, 515, or 516 of the Housing Act of 1949
24 or Section 202 of the Housing Act of 1959, or the housing
25 cooperative was financed by a direct loan from the California
26 Housing Finance Agency, and provided that the regulatory and
27 occupancy agreements were approved by the governmental
28 lender or insurer, and provided that the transfer is to the housing
29 cooperative or to a person or family qualifying for purchase by
30 reason of limited income. Any subsequent transfer from the
31 housing cooperative to a person or family not eligible for state or
32 federal assistance in reduction of monthly carrying charges or
33 interest reduction assistance by reason of the income level of that
34 person or family shall constitute a change of ownership.

35 (j) Any transfer during the period March 1, 1975, to March 1,
36 1981, between coowners in any property that was held by them
37 as coowners for all or part of that period, and which was eligible
38 for a homeowner's exemption during the period of the
39 coownership, notwithstanding any other provision of this chapter.

40 Any transferee whose interest was revalued in contravention of

the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars (\$20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or

1 “ward” includes a minor or an adult. As used in this subdivision,
2 “eligible dwelling unit” means the dwelling unit that was the
3 principal place of residence of the child or children, or ward or
4 wards for at least five years preceding the transfer and remains
5 the principal place of residence of the child or children, or ward
6 or wards after the transfer. Any transferee whose property was
7 reassessed in contravention of the provisions of this subdivision
8 for the 1984-85 assessment year shall obtain a reversal of that
9 reassessment upon application to the county assessor of the
10 county in which the property is located. Application by the
11 transferee shall be made to the assessor no later than 30 days
12 after the later of either the transferee’s receipt of notice of
13 reassessment pursuant to Section 75.31 or the end of the 1984-85
14 fiscal year.

15 (o) Any transfer of a possessory interest in tax-exempt real
16 property subject to a sublease with a remaining term, including
17 renewal options, that exceeds half the length of the remaining
18 term of the leasehold, including renewal options.

19 (p) Commencing with the lien date for the 2006-07 fiscal year,
20 any transfer between registered domestic partners, including, but
21 not limited to:

22 (1) Transfers to a trustee for the beneficial use of a registered
23 domestic partner, or the surviving registered domestic partner of
24 a deceased transferor, or by a trustee of such a trust to the
25 registered domestic partner of the trustor.

26 (2) Transfers that take effect upon the death of a registered
27 domestic partner.

28 (3) Transfers to a registered domestic partner or former
29 registered domestic partner in connection with a property
30 settlement agreement or decree of dissolution of a registered
31 domestic partnership or legal separation.

32 (4) The creation, transfer, or termination, solely between
33 registered domestic partners, of any coowner’s interest.

34 (5) The distribution of a legal entity’s property to a registered
35 domestic partner or former registered domestic partner in
36 exchange for the interest of the registered domestic partner in the
37 legal entity in connection with a property settlement agreement
38 or a decree of dissolution of a registered domestic partnership or
39 legal separation.

1 ~~SEC. 3. (a) The amendments made to Sections 462.040 and~~
2 ~~462.240 of Title 18 of the California Code of Regulations that~~
3 ~~became operative on November 13, 2003, shall be applied~~
4 ~~retroactively to July 1, 2003.~~

5 ~~(b) Subdivision (a) furthers a vital public purpose of the state~~
6 ~~by ensuring that these regulatory changes made by the State~~
7 ~~Board of Equalization are applied uniformly across the state to~~
8 ~~ease the administrative burden in applying those rules so that~~
9 ~~expectations of taxpayers who relied upon those rules are~~
10 ~~protected.~~

11 ~~SEC. 4.—~~

12 ~~SEC. 3.~~ Notwithstanding Section 2229 of the Revenue and
13 Taxation Code, no appropriation is made by this act and the state
14 shall not reimburse any local agency for any property tax
15 revenues lost by it pursuant to this act.

16 ~~SEC. 5.—~~

17 ~~SEC. 4.~~ This act provides for a tax levy within the meaning of
18 Article IV of the Constitution and shall go into immediate effect.